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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Falkland Islands (Malvinas)*

Working paper prepared by the Secretariat

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* A dispute exists between the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland concerning sovereignty over the Falkland Islands (Malvinas) (see ST/CS/SER.A/42).

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I. General

1. The Falkland Islands (Malvinas) [1] is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory comprises two large islands, known as East and West Falkland, as well as some 200 smaller islands, and has a total area of about 12,173 square km. The Territory is situated in the South Atlantic, about 770 km north-east of Cape Horn and about 480 km east of the South American mainland. South Georgia, located about 1,300 km south-east of the Falkland Islands (Malvinas) group, and the South Sandwich Islands, located about 750 km east-south-east of South Georgia, are administered from the Falkland Islands (Malvinas) as a separate territory; the Governor of the Falkland Islands (Malvinas) acts concurrently as Commissioner for South Georgia and the South Sandwich Islands. According to the 2006 census, the population of the Territory was 2,478 (not including residents temporarily absent and civilians working in conjunction with the Ministry of Defence), up from 2,391 in 2001, representing the largest population since 1931.[2]

II. Constitutional and political developments

2. On 17 November 2005, the last general elections were held for all eight members of the Legislative Council, five from the Stanley constituency and three from the Camp (i.e., outside Stanley), for a four-year term. A new Governor, Alan Huckle, replaced outgoing Governor Howard Pearce in August 2006. The Legislative Council meets regularly to pass legislation for "the peace, order and good government of the Falkland Islands" (Malvinas). According to the administering Power, legislative councillors elect a Speaker to chair the Legislative Council. They appoint a Chief Executive as head of the civil service to implement policy. Each councillor takes responsibility for a particular portfolio and works closely with the relevant departments. They do not currently have ministerial responsibility, although this is under active consideration as part of the current constitutional review. Questions of policy are considered by the Executive Council, which consists of three members of the Legislative Council who are elected annually from their own number, in addition to two ex officio members who have no voting rights. The Attorney General and the Commander of British Forces on the islands also have the right to attend meetings of the Executive Council but do not vote. The Governor normally presides at meetings of the Executive Council and is, for the most part, obliged to consult the Executive Council in respect of his functions. However, he retains responsibility for foreign policy and defence. The Territory is currently undertaking the final rounds of a constitutional review, which is due to be submitted to the Foreign and Commonwealth Office in the first half of 2007.

3. Regarding the reform process of the Constitution of the Falkland Islands (Malvinas), according to information provided by Argentina, the Argentine Government stressed its rejection in the statement transmitted to the Secretary-

[1] The information contained in the present paper has been derived from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations as well as information provided by the Government of Argentina and that available in published sources.

[2] *MercoPress*, 1 March 2007.

General by its Permanent Representative on 18 February 1985, to the effect that "the terms of this reform imply a total disregard of United Nations General Assembly resolutions 37/9, 38/12 and 39/6 and, in particular, of the spirit of resolution 31/49, which called upon the parties to refrain from taking decisions that would unilaterally modify the current situation" (see A/40/132).

4. On 10 June 2006, the Government of Argentina issued the following press communiqué:

> On 10 June, the "Day of Affirmation of Argentine Rights over the Malvinas Islands and the Antarctic Sector", the Argentine nation commemorates the creation in 1829 of the Political and Military Command for the Malvinas Islands and islands adjacent to Cape Horn in the Atlantic Ocean, through a decree issued by Brigadier Martín Rodríguez, acting Governor of Buenos Aires province.
>
> Since its inception as an independent nation, the Argentine Republic has demonstrated, through various acts of Government, its firm political will to exercise effective sovereignty over the southern territories and maritime areas that it inherited from Spain.
>
> Through this act the Government of Argentina reaffirmed its legitimate titles over the Islands and sought to ensure respect of the laws so as to protect without any discrimination the activities of the Argentine and non-Argentine population that resided on the Islands. Thus, the institutional framework was established for the subsequent undertakings of the Governor of the Malvinas Islands, D. Luis Vernet.
>
> This effective exercise of sovereignty was interrupted on 3 January 1833, when British forces occupied the Malvinas Islands, expelling the Argentine population and authorities settled there and replacing them with others of British origin.
>
> The people and Government of Argentina never consented to that act of force and today, as in the past, they confirm their permanent and unwavering determination to regain the exercise of sovereignty over the Malvinas Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas, through the peaceful path of diplomatic negotiations and in accordance with the many appeals of the international community.
>
> Argentina's claim has traditionally been supported by the countries of our region and by major international and regional organizations, including the General Assembly of the United Nations and the General Assembly of the Organization of American States. These forums have repeatedly called on the Governments of the Argentine Republic and the United Kingdom to resume negotiations with a view to resolving the sovereignty dispute in a peaceful and conclusive manner.
>
> On this important date, the Argentine Government reiterates its unwavering sovereignty claim over the Malvinas Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas. At the same time, it reaffirms its permanent willingness to resume negotiations with a view to settling as soon as possible and in a just and conclusive manner the still unresolved sovereignty dispute. The Argentine Republic exhorts the United

Kingdom to show the same willingness to accomplish this duty, according to what has been established by the international community in numerous pronouncements.

5. The position of the United Kingdom is that it has no doubts about its sovereignty over the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands and the surrounding maritime areas. There can be no negotiations on the sovereignty of the Falkland Islands (Malvinas) unless and until such time as the Falkland Islanders so wish.

6. Detailed information on the Constitution and Government of the Falkland Islands (Malvinas) is contained in the 2001 working paper prepared by the Secretariat (A/AC.109/2001/11).

III. Mine clearance

7. On 11 October 2001, the Governments of Argentina and the United Kingdom concluded an agreement, covered by the formula on sovereignty, regarding a feasibility study of the clearance of landmines in the Falkland Islands (Malvinas), to fulfil the obligations undertaken by both countries in the Ottawa Convention of 1997.

8. On 3 August 2006, another agreement covered by the formula on sovereignty was concluded, in addition to that of 11 October 2001. It established the inclusion of unexploded ordnance inside the mined area within the scope of the 2001 exchange of notes and a procedure to contract a private company to undertake some specific works foreseen in the main study phase, including a field survey in the Falkland Islands (Malvinas).

9. The twelfth meeting of the United Kingdom-Argentine Joint Working Party was held in Paris, on 2 and 3 November 2006, with the participation of representatives and experts of the United Kingdom and Argentina. The meeting was held in accordance with the understanding recorded in the exchanges of notes of 11 October 2001 and of 3 August 2006, and was covered by the formula on sovereignty included in those notes. At the meeting a contract was signed between the Argentine Government and Cranfield University, following the selection of Cranfield University by the Joint Working Party to carry out certain tasks of the main phase of a feasibility study for mine clearance in the Falkland Islands (Malvinas). Subsequently, Cranfield University carried out a field survey in the Islands in December 2006, which was monitored by two experts from each country.

IV. Economic conditions

A. General

10. According to the administering Power, the gross domestic product of the Falkland Islands (Malvinas) is estimated to be about £75 million annually. Increasing revenue from corporation tax indicates a buoyant and growing private sector. The fishing industry remains the most important sector of the economy and the tourism sector is seeing rapid growth. In addition, since its formation in 1984,

the Falkland Islands Development Corporation has been encouraging the development of a private sector.

11. The results of the latest census, taken on 8 October 2006, revealed that the average Falkland (Malvinas) Islander lives in the only town, Stanley, works an average of 49 hours per week for the Territory and is paid from £12,000 to £14,000 per year.[2]

B. Public finance

12. The Territory's financial year runs from 1 July to 30 June. According to the administering Power, the Territory maintains a balanced budget. In 2005-2006, the revised estimate for total revenue was £50 million, of which £16 million came from fisheries, £10.7 million from investment income, £8.5 million from taxation and £4.8 million from public works. During the same period, the revised estimate for expenditure was £41 million. An economic review was undertaken in October 2006 by the Foreign and Commonwealth Office and Oxford Policy Management. It found that "overall, the Falkland Islands is well managed from a fiscal and public finance management perspective" and that "the quality of governance is high, with generally sound and improving execution".

C. Fisheries

13. Loligo and Illex squid are the mainstay of the Territory's fisheries and economy. In addition to those two squid species, a number of finfish are targeted, including southern blue whiting, hake and hoki. The Fisheries Department is responsible for administering the fishery. Following the enactment of the Fisheries (Conservation and Management) Ordinance in 2005, the Territory began implementation of the new licensing regime, which introduced a system of long-term individual transferable rights owned by the Islanders. The system was initially introduced for the Loligo squid fishery and the Patagonian toothfish fishery and will be extended to other species in due course. The new regime gives greater control over the fishery resources of the territory to local residents and businesses, which will promote higher standards of conservation.

14. According to information provided by Argentina, on 1 July 2006 the Government of Argentina issued a communiqué reaffirming its earlier rejection of the unlawful adoption by the United Kingdom of a new fisheries policy:

> In view of the possible implementation by the United Kingdom, in the near future, of the new fisheries measure published on 15 August 2005, which constitutes a long-term illegal and unilateral disposition of fisheries resources in the maritime areas surrounding the Malvinas Islands, which are subject to a sovereignty dispute between the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland, the Argentine Republic reiterates its rejection of this measure, as already reflected in the joint press release of the twenty-seventh South Atlantic Fisheries Commission meeting, held in London on 15 July 2005. Furthermore, Argentina also conveyed its formal protest to the United Kingdom on 3 and 29 June and 27 October 2005.

It should be reminded that the new unilateral British measure is contrary to resolution 31/49 of the United Nations General Assembly, which urges both parties to the dispute to refrain from adopting unilateral modifications of the situation while the islands are going through the decolonization process recommended by the resolution of the United Nations General Assembly; that its adoption by the United Kingdom is not compatible with the bilateral arrangements on cooperation for the preservation of fisheries resources and does not reflect the spirit of cooperation that should prevail within the South Atlantic Fisheries Commission.

The Argentine Government reiterates the need to comply with the different resolutions of the United Nations Organization and the declaration of the Organization of American States, which urge the Governments of the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland to resume bilateral negotiations in order to reach, as soon as possible, a fair, peaceful and long-lasting solution with respect to the sovereignty dispute.

In this respect, the Argentine Government stresses its permanent willingness to immediately resume such negotiations and urges the British Government to demonstrate, without delay, the same willingness to comply with the obligation of resuming sovereignty negotiations, as established in the declarations of the international community.

The Argentine Republic reaffirms its sovereignty rights over the Malvinas Islands, South Georgia and the South Sandwich Islands and their surrounding maritime areas, which are an integral part of its national territory.[3]

15. According to the administering Power, on 14 June 2005, the United Kingdom responded to the original Argentine protest stating, inter alia:

Her Majesty's Government firmly rejects this protest and reminds the Government of the Argentine Republic that the Falkland Islands Government is fully entitled to adopt whatever measures it considers necessary to conserve fish stocks within the conservation zones and safeguard the Islands' economic future.

Her Majesty's Government is disappointed at the Argentine suggestion that this Falkland Islands internal matter will influence the level of Argentine cooperation on the conservation of fisheries resources under the South Atlantic Fisheries Commission, which is in the mutual interests of all parties.

The United Kingdom has no doubts about its sovereignty over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas.[4]

16. On 6 and 7 September 2006, in London, and on 14 and 15 March 2007, in Buenos Aires, two special diplomatic meetings took place between Argentina and the United Kingdom with the objective of analysing the mandate of the Commission on Fishing in the South Atlantic. The Commission was created following the Joint Declaration of 28 November 1990.

[3] Information provided by Argentina in March 2007.

[4] Information provided by the administering Power in March 2007.

17. The Government of Argentina maintained the position that:

> This Declaration is one of the provisional understandings — under the formula of guaranteeing sovereignty — that exist between Argentina and the United Kingdom, whose principal objective is to contribute, through cooperation in the conservation of fishing resources, to an adequate atmosphere for the renewal of negotiations geared towards the resolution of the sovereignty dispute over the Malvinas Islands, South Georgia and the South Sandwich Islands and surrounding seas through the renewal of bilateral negotiations, fulfilling resolution 2065 (XX) of the United Nations General Assembly and other resolutions of this Organization. However, the United Kingdom, since the very year of the adoption of the Joint Declaration, turned to unilateral measures contrary to the bilateral understandings on cooperation for the conservation of fishing resources in the disputed maritime area and to the mandate of General Assembly resolutions. They defrauded the objectives and goals of the Joint Declaration and of the Commission itself. At the same time they contradict United Nations resolution 31/49.[3]

D. Agriculture, land tenure and livestock

18. Information on agriculture is contained in the 2001 working paper prepared by the Secretariat (A/AC.109/2001/11). According to the administering Power, since 2001 the most significant change in agriculture has been the development of the meat industry. Some 35,000 sheep and lambs were exported from Sand Bay abattoir in 2006, an increase from 22,000 in 2004, its opening year. Farming is adjusting to produce a dual-purpose sheep that will maximize return from both meat and wool. The Territory has an ongoing 10-year plan to support agriculture, although spending on this has decreased by 3 per cent per annum in recent years. Pasture and genetic improvement programmes lie at the heart of the Government strategy. The amount of farmland in use has declined, with some landowners moving out of stock management either completely or partially when able to earn income from other sources.

E. Tourism

19. There has been a significant expansion in the Falkland Islands (Malvinas) tourism sector in recent years. According to the administering Power, there were 45,000 cruise ship visitors in the 2005-2006 season, in comparison with 37,000 in the 2004-2005 season. Some 55,000 cruise ship visitors and 1,000 land-based tourists are expected to visit the Falkland Islands (Malvinas) in the 2006-2007 season, and the Tourist Board predicts that annual tourist numbers will reach 150,000 visitors in the next few years.

F. Transport, communications and other basic facilities

20. According to the administering Power, the Territory is nearing the end of an extensive road-building programme, which has involved the construction of a road network, over 700 kilometres long, to connect outlying settlements and farms. In addition, a new coastal shipping contract has been awarded for a service to the

community outside Stanley, supplying fuel and stores to settlements on the east, west and outlying islands. Additionally, the new shipping contract will provide a regular ferry service between the two main islands, carrying both passengers and freight.

21. During the period under review, the LanChile airline continued to provide a regular service between Punta Arenas, Chile and the Falkland Islands (Malvinas), including two monthly stopovers in Río Gallegos, Argentina, one in each direction, in accordance with the provisions of the Joint Statement of 14 July 1999 between Argentina and the United Kingdom. That service is carried out in the framework of commercial air agreements between Argentina and Chile. The Exchange of Notes Agreement of 23 February 2001 between Argentina and the United Kingdom placed private navigation and private aerial navigation between mainland Argentina and the Falkland Islands (Malvinas) under a formula of sovereignty. Thus, Argentina considers and authorizes non-regular flights to the Falklands (Malvinas) on a case-by-case basis.

22. Since 3 November 2003, Argentina has not authorized non-regular flights between third countries and the Falkland Islands (Malvinas) by any company flying under the flag of a third country. That position does not affect the continuation of the above-mentioned regular service and does not apply to emergency situations or health evacuation flights.

23. Late in 2003 and in the first quarter of 2004, Argentina and the United Kingdom exchanged views on the Argentine proposal aimed at the establishment of a direct regular air service between mainland Argentina and the Falkland Islands (Malvinas) operated by Argentine air companies. The United Kingdom stated that any arrangements would need to be acceptable to the Islanders. No agreement between Argentina and the United Kingdom has been reported to date.

24. Communications, both internally and with the outside world, have improved dramatically over the past several years. According to the 2006 census, Internet access is available to 740 of the 1,093 computers on the Islands and there are 1,068 mobile and 1,428 fixed-line telephones.[2]

25. More information on transport, communications and other basic facilities is contained in the 2001 working paper prepared by the Secretariat (A/AC.109/2001/11).

G. Environment

26. According to the administering Power, the Territory agreed to join the United Kingdom's ratification of the United Nations Framework Convention on Climate Change and the Kyoto Protocol in April 2006. As the second British Overseas Territory to join the United Kingdom's commitment to the Convention and the Protocol, this represents a willingness to promote environmental concerns.

27. The main environmental development resulting from the Territory joining the Kyoto Protocol will be the monitoring of emissions, on an annual basis. The agreement with the United Kingdom stipulates that the Territory is expected to introduce, where possible, policies in line with the objectives of the United Kingdom Climate Change Programme. Although emission reductions are not

specifically required of the Falkland Islands (Malvinas), there is goodwill, and several emission-reducing projects are already being pursued by the Territory.

28. A waste heat recovery programme is being implemented by the power station, which will use otherwise wasted electricity to heat the local hospital and community school. The scheme will become operational in early 2007, and will save about 300,000 litres of diesel annually (reducing by roughly 3 per cent the annual fossil fuel consumption of the power station).

29. The Territory is installing a wind farm, which will be the first large-scale renewable energy supply for the Falkland Islands (Malvinas), and will go further to reduce fossil fuel use. Predictions suggest a reduction of over 20 per cent of annual fossil fuel consumption.

30. On a smaller scale, the provision of wind turbines for small settlements in the Falkland Islands (Malvinas) has provided wind-generated power to small homesteads for the last 10 years. The Falkland Islands Development Corporation offers a 50 per cent grant for wind turbine costs to farmers.

31. Building control guidelines are being introduced by the Territory's Environmental Planning Department to promote the building of more energy-efficient housing.

32. An international workshop, entitled "Albatross and Petrels in the South Atlantic: Priorities and Conservation" was hosted by Falklands Conservation in the Falkland Islands (Malvinas) from 12 to 15 March 2006. The meeting drew on the experience of world leaders in albatross and petrel research to identify priorities for the administering Power and its Overseas Territories, within the framework of the international Agreement on the Conservation of Albatrosses and Petrels, which the United Kingdom ratified in March 2004. Discussions focused on land-based and at-sea research and management, education and awareness, plus reporting methods for providing vitally important data and population numbers and trends for the species covered by the Agreement. The meeting resulted in a detailed programme of positive action required to address the dramatic declines in seabird populations across the South Atlantic.

33. According to information provided by Argentina, on 28 July 2006 the President of Argentina, on the occasion of the ratification of the Agreement on the Conservation of Albatrosses and Petrels, rejected the extension of the territorial application to the Malvinas Islands, South Georgia and the South Sandwich Islands, notified by the United Kingdom to the Secretariat of the Agreement. The President said:

> I ratify, in the name and on behalf of the Argentine Government, the aforementioned Agreement, and make the following statement: The Argentine Republic rejects the extension of the territorial application of the Agreement on the Conservation of Albatrosses and Petrels, done at Canberra on 19 June 2001 and which entered into force on 1 February 2004, to the Malvinas Islands, South Georgia and the South Sandwich Islands, notified by the United Kingdom of Great Britain and Northern Ireland to the Secretariat of the Agreement in ratifying the said instrument on 25 March 2004, reiterating the statement to the same effect made on the occasion of the First Meeting of the Parties to the Agreement (Hobart, Australia, 10 to 12 November 2004).

> The Argentine Republic reasserts its sovereignty over the Malvinas Islands, South Georgia and the South Sandwich Islands and surrounding maritime spaces as an integral part of its territory and notes that the United Nations General Assembly has adopted resolutions 2065 (XX), 3160 (XXVIII), 31/49, 37/9, 38/12, 39/6, 40/21, 41/40, 42/19 and 43/25, acknowledging the existence of the sovereignty dispute and calling on the Governments of the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland to establish negotiations with a view to finding the means to settle peacefully and definitively the outstanding differences between the two countries, including all matters relating to the future of the Malvinas Islands in accordance with the United Nations Charter.
>
> The Argentine Republic, without prejudice to the provisions of article IV of the Antarctic Treaty, likewise rejects the extension of the Agreement to the so-called "British Antarctic Territory", and reasserts its legitimate rights of sovereignty over the Argentine Antarctic Sector, comprised between the meridians of 25 and 74 degrees west longitude and the parallel of 60 degrees south latitude and the South Pole, which is an integral part of the Argentine national territory.

34. The above-mentioned rejection was, in turn, rejected by the administering Power:

> The United Kingdom firmly rejects the Argentine statement concerning the United Kingdom's extension of the Agreement on the Conservation of Albatrosses and Petrels to the Falkland Islands, South Georgia and the South Sandwich Islands and British Antarctic Territory.
>
> The United Kingdom has no doubts about its sovereignty over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas. The United Kingdom reiterates that there can be no negotiations on the sovereignty of the Falkland Islands unless and until such time as the Falkland Islanders so wish.
>
> The United Kingdom also has no doubt about British sovereignty over the British Antarctic Territory, and notes the Argentine reference to article IV of the Antarctic Treaty, to which both the Government of the Argentine Republic and the Government of the United Kingdom of Great Britain and Northern Ireland are parties.

V. Social conditions

A. General

35. According to the administering Power, the Territory observes the principles contained in the Universal Declaration of Human Rights. The provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms have been extended to the Falkland Islands (Malvinas) by the administering Power. Furthermore, the United Kingdom has extended the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights to the Territory and observes the regular reporting procedures under those instruments. There is no discrimination on the basis of sex in the

implementation of articles 2 and 3 of the International Covenant on Civil and Political Rights. The Convention on the Elimination of All Forms of Discrimination against Women has been applied by the United Kingdom in the Falkland Islands (Malvinas), with the agreement of the Territory. According to the administering Power, in 2006 the Territory completed an external assessment in accordance with the requirements of the United Nations Convention on the Rights of the Child, and a report was submitted to the United Nations. In addition, an action plan of future initiatives has been developed.

36. According to information provided by Argentina, on 5 October 2000 the Government of Argentina sent to the Secretary-General the following communication:

> The Argentine Republic wishes to refer to the report submitted by the United Kingdom of Great Britain and Northern Ireland to the Committee on the Rights of the Child, which contains an addendum entitled "Overseas Dependent Territories and Crown Dependencies of the United Kingdom of Great Britain and Northern Ireland" (CRC/C/41/Add.9).
>
> In that connection, the Argentine Republic wishes to recall that by its note of 3 April 1995 it rejected the extension of the application of the Convention on the Rights of the Child to the Malvinas Islands, South Georgia and the South Sandwich Islands effected by the United Kingdom of Great Britain and Northern Ireland on 7 September 1994.
>
> The Government of Argentina rejects the designation of the Malvinas Islands as Overseas Dependent Territories of the United Kingdom or any other similar designation.
>
> Consequently, the Argentine Republic does not recognize the section concerning the Malvinas Islands contained in the report which the United Kingdom has submitted to the Committee on the Rights of the Child (CRC/C/41/Add.9) or any other document or instrument having a similar tenor that may derive from this alleged territorial extension.
>
> The United Nations General Assembly has adopted resolutions 2065 (XX), 3160 (XXVIII), 31/49, 37/9, 38/12, 39/6, 40/21, 41/40, 42/19 and 43/25, in which it recognized that a dispute exists concerning sovereignty over the Malvinas Islands and urged the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland to continue negotiations with a view to resolving the dispute peacefully and definitively as soon as possible, assisted by the good offices of the Secretary-General of the United Nations, who is to report to the General Assembly on the progress made.

37. According to the Government of Argentina, it rejected the United Kingdom's declarations regarding the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands by its declarations of 3 October 1983 and 8 August 1986 on the International Covenant on Economic, Social and Cultural Rights, of 3 October 1983, 8 August 1986 and 5 October 2000 on the International Covenant on Civil and Political Rights, of 4 April 1989 on the Convention on the Elimination of All Forms of Discrimination against Women and of 18 January 2005 on the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

B. Public health

38. The general state of health in the Falkland Islands (Malvinas) is good. Medical and dental treatment and prescription drugs are free to all residents and to United Kingdom citizens under a reciprocal health agreement. All medical services are based at the King Edward VII Memorial Hospital in Stanley, which provides a full range of primary-care services to the civilian population, military personnel stationed in Stanley and foreign fishing fleets around the Islands. In addition, there is a visiting medical service to outlying farm settlements. The Hospital has facilities to deal with acute medical and surgical conditions. It has 28 beds, including two maternity and two intensive care beds. Cases requiring specialist attention are first stabilized and then evacuated to the United Kingdom or Chile or, in emergencies, to Montevideo. According to the administering Power, the estimated expenditure for health and social services in 2005-2006 was £6 million.

C. Social security and welfare

39. The Falkland Islands Retirement Pensions Ordinance provides for mandatory fixed monthly contributions by all employers and employees between the ages of 17 and 64. Implementation of the Falkland Islands Pension Scheme Ordinance 1997 commenced during 1998. That scheme provides a national defined contribution vehicle through which employers, self-employed individuals and other individuals within the Falkland Islands (Malvinas) can make contributions, under employer-employee agreements or voluntarily, during their working lives and receive a pension upon retirement. A system of social welfare grants and pensions is in operation to deal with cases of hardship and disability.

D. Education

40. Education in the Falkland Islands (Malvinas) is free and compulsory for all children between the ages of 5 and 16. The local Government provides staff, equipment and supplies for education, has a primary and a secondary school in Stanley and operates two settlement schools. In the rural areas, younger children either attend the settlement schools or are visited by one of six travelling teachers for two weeks out of every six. There are also telephone lessons available. Students above the age of 16 who qualify in examinations are funded for studies overseas, mostly in the United Kingdom. According to the administering Power, in 2005-2006, there were 380 schoolchildren being educated in the Falkland Islands (Malvinas), and 55 further and higher education pupils were being educated overseas. The United Kingdom announced that citizens from the Overseas Territories would benefit beginning in 2007 from the home student fee rate at English universities.[5]

[5] See www.fco.gov.uk, 23 November 2006.

VI. Participation in international organizations and arrangements

41. The Government of the Falkland Islands (Malvinas) participates in activities of the Commonwealth and is a member of the United Kingdom Overseas Territories Association. Representatives of the Government have participated, as members of the United Kingdom delegation, in discussions on matters affecting their interests, such as those leading to the Joint Statement of 14 July 1999.

42. In its letter of 14 November 2005 to the Secretary-General, the Government of Argentina rejected the declaration made by the United Kingdom extending the territorial scope of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction to the Falkland Islands (Malvinas).

43. In a letter dated 27 April 2006 to the Secretary-General, the Permanent Representative of the United Kingdom to the United Nations rejected that rejection stating, inter alia:

> The Government of the United Kingdom of Great Britain and Northern Ireland are fully entitled to extend the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction to the Falkland Islands, South Georgia and the South Sandwich Islands and the British Antarctic Territory.

VII. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

44. The Special Committee considered the question of the Falkland Islands (Malvinas) at its 11th meeting, on 15 June 2006. At that meeting, the Special Committee decided to accede to the request of Argentina, Brazil, Paraguay, Peru and Uruguay to participate in the consideration of the item. Richard Stevens and Richard Davies, from the Legislative Council of the Falkland Islands (Malvinas), made statements (see A/AC.109/2006/SR.11).

45. The representative of Chile, on behalf of Bolivia, Chile, Cuba and Venezuela (Bolivarian Republic of) introduced a draft resolution on the item (A/AC.109/2006/L.8). The draft resolution recognized that the Falkland Islands (Malvinas) differ from other colonial situations due to the sovereignty dispute between the two States. It stated that the only way to resolve the dispute is through a negotiated settlement, and it called on the parties to consolidate the process of dialogue and cooperation through the resumption of negotiations in order to find a solution, in accordance with the resolutions of the United Nations.

46. At the same meeting, the Minister for Foreign Affairs, International Trade and Worship of Argentina, Jorge Taiana, stated, inter alia:

> Since 1965 the "Question of the Malvinas Islands," which includes the Malvinas Islands, South Georgia and the South Sandwich Islands and the

surrounding maritime areas, has been under consideration by the United Nations. The General Assembly and the Special Committee on Decolonization have defined this question as a special and particular case that differs from traditional colonial situations by virtue of the fact that it involves a dispute over sovereignty.

Paragraph 6 of the Declaration on the Granting of Independence to Colonial Countries and Peoples, resolution 1514 (XV) of the United Nations General Assembly, which I shall deal with later, authorizes this Committee to examine colonial questions involving sovereignty disputes. That resolution, adopted on 14 December 1960, is the guiding resolution on decolonization.

It should be recalled that the principle of self-determination, enshrined in paragraph 2 of resolution 1514 (XV), is limited by the principle of territorial integrity, which prevails over the former, since paragraph 6 of the above-mentioned resolution says: "Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations". And in paragraph 7 it adds, as a reaffirmation of the above, that "all States shall observe faithfully and strictly the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the present Declaration on the basis of equality, non-interference in the internal affairs of all States, and respect for the sovereign rights of all peoples and their territorial integrity."

Therefore, its application would be mistaken in a situation such as that of the Malvinas Islands in which part of the territory of an independent State, the Argentine Republic, has been separated — against the will of its inhabitants — by virtue of an act of force perpetrated by the United Kingdom in 1833, although the Argentine Republic, as an aggrieved State, has since then permanently protested that situation.

The international community has made repeated pronouncements in the General Assembly, producing 10 resolutions on the question of the Malvinas Islands, and this same Committee has expressed itself regarding the question in another 41 resolutions.

The general principles regulated by resolution 1514 (XV) were applied to the specific case of the question of the Malvinas Islands, more than 40 years ago, by resolution 2065 (XX), also of the United Nations General Assembly, of 16 December 1965.

This resolution expressly establishes that the question of the Malvinas Islands is a special question that involves the existence of a dispute between Argentina and the United Kingdom as sole parties, urging them to negotiate bearing in mind the provisions and objectives of the Charter of the United Nations and of resolution 1514 (XV), as well as the interests of the population of the islands.

Resolution 2065 (XX) excluded the application of the principle of self-determination because by accepting the existence of a dispute, the application of paragraph 2 of resolution 1514 (XV) clashes with paragraph 6, since granting self-determination to the Islanders would imply the disruption of the territorial integrity of the Argentine Republic.

Since 1965, year after year, the resolutions all urge the two parties to resume negotiations "in order to find as soon as possible a peaceful, just and lasting solution to the sovereignty dispute relating to the question of the Malvinas Islands" bearing in mind "the interests of the population of the islands", establishing that "the way to put an end to the special and particular colonial situation in the question of the Malvinas Islands is the peaceful and negotiated settlement of the dispute over sovereignty between the Governments of the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland.

This lengthy lack of progress must be a cause for concern for the United Nations. In view of this situation, it is essential that the Secretary-General continue with the renewed mission of good offices entrusted to him by the General Assembly in order to assist the parties in complying with what has been repeatedly requested by the General Assembly itself and this Committee.

However, I would like to point out that despite my country's desire to cooperate, the United Kingdom has not ceased to carry out unilateral actions that introduce modifications in the situation while the Islands are undergoing the process recommended in the General Assembly resolutions, contradicting resolution 31/49 of 1 December 1976, the provisional understandings mentioned and the mandate of the international community.

The Argentine Government has protested and rejected these alleged British jurisdictional exercises in the area of the dispute. In fact, only in 2005 Argentina had to submit 15 notes of protest to the United Kingdom rejecting illegitimate unilateral acts in the disputed area.

47. In reply, Richard Davies of the Falkland Islands stated, inter alia:

In recent years a cold war has developed in the South Atlantic. We are very disappointed that the current Argentine Government appears to have taken steps deliberately designed to damage our economy. Economic sanctions, such as refusal of permission for commercial flights to cross their airspace, and threats to fishing companies and other shipping interests, appear to be part of a deliberate programme. How else can it be interpreted? We regret the recent failure to hold full meetings of the South Atlantic Fisheries Commission. We regret too the steps which the Argentine Government has taken to dissuade its scientists from collaborating in, or contributing to, any work in which the Falkland Islands are involved.

I put it to you that the resolution before you is incompatible with the purposes and principles of the Charter of the United Nations. Support for this resolution will not move forward the process of decolonization. The sterile and ineffectual annual ritual ignores our political rights as a people. The call for bilateral negotiations between the United Kingdom and Argentina betrays our right to self-determination. The resolution ignores the views of the people it refers to. Support for the resolution is incompatible with natural justice, with the Charter of the United Nations, human rights and the fundamental principles of the Decolonization Committee.

As I have shown, the Argentine argument for territorial integrity is no more than a myth. The Falklands are not part of Argentina, never have been, and never will be. Not historically, not culturally, not geographically, not

legally, not ethnically, not ideologically, not linguistically. We recognize the Argentine people's passionate national pride and belief in their claim, but no amount of repetition will make it legitimate. We recognize the enormity of the suffering and sacrifice caused on both sides by the unnecessary war of 1982, but now it is time for reconciliation. We recognize the Argentine people's visceral sense of having been somehow robbed of something that was once theirs. We believe this has little historical or legal basis. Whatever the case, we cannot turn the clock back 170 years, any more than we can turn it back on other old border disputes in the region or across the world.

Surely the time has come for both our countries to put aside the past and to move on into the twenty-first century. The world has become a more cosmopolitan community, and there is no place for remaining rooted in the past. I believe the people of Argentina have the goodwill and maturity to do this, and recognize that to do so is in the interests of both our countries. I hope that their politicians can also have the strength and vision to make the courageous decision to engage in dialogue with us and move towards a better relationship.

48. At the same meeting, the representatives of Bolivia, Brazil, Chile, China, the Congo, Cuba, Fiji, Grenada, Indonesia, Paraguay, Peru, the Russian Federation, Sierra Leone, Spain, the Syrian Arab Republic, Uruguay and Venezuela (Bolivarian Republic of) also made statements (see A/AC.109/2006/SR.11).

B. Special Political and Decolonization Committee (Fourth Committee)

49. On 2 October 2006, during the debate on decolonization issues in the Fourth Committee of the General Assembly, several representatives referred to the question of the Falkland Islands (Malvinas). The representative of Guyana, speaking on behalf of the Rio Group, considered it necessary for the Governments of Argentina and the United Kingdom to resume negotiations to find "a peaceful, just and definitive solution to the sovereignty dispute". The representative of Brazil, speaking on behalf of the Southern Common Market, expressed support for the draft resolution on the question of the Falkland Islands (Malvinas) adopted by the Special Committee on 15 June 2006 (see A/C.4/61/SR.2).

50. The representative of the United Kingdom, in exercise of the right of reply, said that his country's position was well known and had been set out in detail by the Permanent Representative of the United Kingdom to the United Nations in a letter to the Secretary-General dated 27 April 2006 (see A/C.4/61/SR.2).

C. Action taken by the General Assembly

51. By adopting its resolution 58/316, the General Assembly decided that the item entitled "Question of the Falkland Islands (Malvinas)" would remain on the agenda for consideration upon notification by a Member State. As at the date of the issuance of the present report, there had been no such notification by a Member State to the General Assembly at its fifty-ninth, sixtieth or sixty-first sessions.

D. Consideration by other intergovernmental organizations and international forums

52. On 6 June 2006, the General Assembly of the Organization of American States (OAS) adopted a Declaration on the Question of the Malvinas Islands (Falkland Islands) (resolution AG/DEC.48 (XXXVI-O/06)), in which, inter alia, it welcomed the reaffirmation of the will of the Argentine Government to continue exploring all possible avenues towards a peaceful settlement of the dispute and its constructive approach towards the inhabitants of the Malvinas Islands (Falkland Islands). It reaffirmed the need for the Government of Argentina and the United Kingdom to begin negotiations on the sovereignty dispute as soon as possible, in order to find a peaceful solution to that protracted controversy. The General Assembly of OAS decided to continue to examine the question of the Malvinas Islands (Falkland Islands) at its subsequent sessions, until a definitive settlement had been reached thereon.

53. Speaking before the OAS General Assembly, the Minister for Foreign Affairs, International Trade and Worship of Argentina stated:

> My Government has reiterated on every occasion its will to negotiate. Nevertheless, the United Kingdom has ignored the successive calls by international forums, hindering with its refusal the decolonization process of the Islands and perpetuating this anachronistic colonial situation.
>
> The international and regional communities, through this General Assembly of American States, which has adopted 10 resolutions and 13 declarations related to the question of the Malvinas Islands, has repeatedly urged the Argentine Republic and the United Kingdom to resume, without delay, negotiations over the sovereignty of the islands.

54. The position of the United Kingdom with regard to the consideration of the question of the Falkland Islands (Malvinas) by OAS was stated in a note verbale dated 6 June 2006 from the Permanent Observer Mission of the United Kingdom to OAS, addressed to the Chair of the General Assembly of OAS. Referring to the Declaration on the Question of the Falkland Islands (Malvinas) adopted by the General Assembly of OAS, the Permanent Observer stated that:

> The United Kingdom's position was last set out in detail by the United Kingdom's Permanent Representative to the United Nations, Sir Emyr Jones Parry, in a letter dated 31 March 2006 with reference to the letter dated 3 January 2006 from the Chargé d'affaires a.i. of the Permanent Mission of Argentina addressed to the Secretary-General of the United Nations. I am confident that this matter will not inhibit fruitful cooperation on remaining issues on the agenda of the thirty-sixth regular session of the General Assembly of the OAS.
>
> The United Kingdom has no doubt about its sovereignty over the Falkland Islands, South Georgia and the South Sandwich Islands and their surrounding maritime areas.

55. On 3 March 2007, the Heads of State at the Rio Group Summit in Guyana approved a resolution backing "Argentina's legitimate rights over the Malvinas". The resolution called for a "fair, peaceful and definitive" solution to the dispute

with the United Kingdom, in accordance with declarations of the United Nations and OAS.[6]

56. The Heads of State and Government of the Iberoamerican countries, assembled in Montevideo, from 3 to 5 November 2006, issued a special communiqué on the question of the Falkland Islands (Malvinas) in which they reaffirmed "the need for the Governments of the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland to renew negotiations as soon as possible with a view to finding an early resolution to the sovereignty dispute relating to the Malvinas Islands in accordance with the resolutions of the United Nations and the Organization of American States and the purposes and principles of the Charter of the United Nations, including the principle of territorial integrity".[7]

57. On 8 December 2006, the Second South American Community of Nations Summit, held in Cochabamba, Bolivia, issued a statement supporting the "legitimate rights" of Argentina in the sovereignty dispute with the United Kingdom over the Malvinas (Falkland Islands) and calling for peaceful negotiations between the two countries.[8]

VIII. Future status of the Territory

A. Position of the administering Power

58. By a letter dated 4 October 2006 addressed to the President of the General Assembly (A/61/535), the Permanent Representative of the United Kingdom stated the position of his Government in reply to the remarks of the President of Argentina in his address to the General Assembly on 20 September 2006:

> The British Government attaches great importance to the principle of self-determination as set out in Article 1.2 of the Charter of the United Nations and article 1 of the International Covenant on Civil and Political Rights. That principle underlies our position on the Falkland Islands.
>
> The elected representatives of the Falkland Islands once again expressed their own views clearly when they visited the United Nations for this year's debate in the Committee of 24. They asked the Committee to recognize that they, like any other people, were entitled to exercise the right of self-determination. They reiterated that the people of the Falkland Islands did not wish for any change in the status of the Islands.
>
> There can be no negotiations on the sovereignty of the Falkland Islands unless and until such time as the Islanders so wish.
>
> The United Kingdom has no doubts about its sovereignty over the Falkland Islands.

59. In his Christmas message to the Falkland Islands, in December 2006, the Prime Minister of the United Kingdom, Tony Blair, restated the commitment of the United Kingdom to the Islanders and their right of self-determination.

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[6] *MercoPress*, 4 March 2007.

[7] See Cumbre Iberoamericana, www.oei.es.

[8] *La Nación*, 9 December 2006.

I want to assure you that the British Government's determination to protect this right [to determine your own future] is as strong today as it was 25 years ago. Based on the fundamental principle of self-determination, we are steadfast in our commitment to uphold your security and the United Kingdom's sovereignty over the Falkland Islands.

At the same time, we will continue to work, despite the recent diplomatic challenges in our relations with Argentina, for productive cooperation on areas of mutual interest including, of course, the future security and prosperity of the Falkland Islands.

B. Position of the Government of Argentina

60. In his opening address to the 2007 legislative session of Congress, the President of Argentina, Néstor Kirchner, reaffirmed his Government's aspiration of recovering sovereignty over the Territory through peaceful means. He described Argentina's diplomatic actions as "intense", recalling the meeting between Minister for Foreign Affairs Taiana and the Secretary-General of the United Nations that was held on 22 January 2007. Mr. Kirchner promised that the Islands would remain a central issue of his Administration's foreign policy.[9]

61. On 20 September 2006, Mr. Kirchner said in his address to the General Assembly:

Since 1965 the "Question of the Malvinas Islands" — which comprises the Malvinas Islands, South Georgia and the South Sandwich Islands and the surrounding maritime area — has been considered by the United Nations.

The General Assembly and the Special Committee on Decolonization have defined this question as a particular and special case that differs from traditional colonial situations in that it involves a sovereignty dispute that needs to be resolved by means of bilateral negotiations between my country and the United Kingdom, in accordance with what was established in resolution 2065 (XX) and other relevant resolutions.

We cannot but point out that the Government of the United Kingdom persists in ignoring these General Assembly resolutions.

I would nevertheless like to reaffirm once more the permanent readiness of our country for a constructive dialogue with the United Kingdom and to call upon them to promptly heed the request of the international community to resume the negotiations.

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[9] *MercoPress*, 2 March 2007.